

REMARKS

This responds to the Office Action mailed on July 31, 2008.

Claim 102 is amended, no claims are canceled, and no claims are added; as a result, claims 95-119 are now pending in this application.

§103 Rejection of the Claims

Claims 95-105 and 107-118 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Feedback Forum* (eBay.com, November 10, 1999, via web.archive.org, hereinafter; "Feedback Forum") in view of Falk et al. (U.S. Publication No. 2001/0037206, hereinafter; "Falk"), in further view of Fuerst (U.S. Patent No. 6,189,029). A determination of obviousness requires a factual showing that "the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." *Graham v. John Deere*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), quoting 35 U.S.C. § 103(a). Applicant respectfully submits that the Office Action did not establish a *prima facie* case of obviousness for the reason that combination of the cited references does not teach or suggest Applicant's claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach the Applicant's claimed invention.

Independent claim 95 recites, in part, "retaining an association of *the first user . . . and the second user.*" (Emphasis added). The Office Action states that "Feedback Forum *does not* explicitly disclose retaining an association of *the first user . . . and the second user.*" (Office Action, page 3, emphasis added). The Office Action, however, asserts that "Fuerst discloses assigning each group (or individual) a group identification ([Fuerst,] column 5, lines 23-25), a survey tool that assigns each question a unique question identification number, QID ([Fuerst,] columns 5, lines 38-40), wherein the results, together with the group (or individual) identification, and the QID are stored in table 600 ([Fuerst,] column 7, lines 46-48)." (Office Action, page 4). According to Fuerst, "*Results* submitted by the user are stored in table 600 where fields 603, 601 and 609 define the *survey name, QID and the group* authorized review the survey results, respectively [, and field] 605 stores the *value of the response.*" (Fuerst, col. 5,

line 66 – col. 6, line 2, emphasis added). Fuerst is silent with respect to "an association of *the first user . . . and the second user*," as recited in claim 95. Applicant notes that the Office Action failed to assert any disclosure by Fuerst of "[a] first user . . . and [a] second user," as recited in claim 95. Thus, combination of the cited references fails to disclose at least this element of independent claim 95, and all claims dependent therefrom.

Independent claims 108 and 114 recite, in part, an "association" including both "a seller identifier" and "a buyer identifier." As noted above, Fuerst does not mention "an association of *the first user . . . and the second user*," as recited in claim 95. Similarly, Fuerst fails to discuss an "association" including both "a seller identifier" and "a buyer identifier," as recited in claims 108 and 114. Thus, combination of the cited references fails to disclose at least this element of independent claims 108 and 114, and their respective dependent claims.

Independent claim 102 is amended to recite, in part, "retaining selections made from the predefined feedback comments by users, wherein *each selection references a specific first user that is a buyer, [and] a specific second user that is a seller, and a specific transaction . . .*" (Emphasis added). In support of the § 103 rejections, the Office Action asserts that "Feedback Form discloses . . . retaining selections made from the feedback comments by users, wherein each selection is related to a specific first user that is a buyer, a specific second user that is a seller (i.e., retaining feedback by both the buyer and seller of a transaction, [Feedback Forum, page 1], and a specific transaction . . .)" (Office Action, pages 6-7). According to Feedback Forum, however, "*Every eBay user has a Feedback Profile,*" and "*Feedback about an eBay user*" appears as "*a member's User ID and a number* in parentheses ()". (Feedback Forum, page 1, emphasis added). "*This number* is the Feedback Rating." (Feedback Forum, page 1, emphasis added). Applicant can find no discussion in Feedback Forum of "retaining [a] selection [that] references *a specific first user . . . [and] a specific second user . . . and a specific transaction*," as recited in claim 102. Assuming, without agreement and solely arguendo, that a "User ID" references "*a specific first user*," the "Feedback Rating" number of Feedback Forum does not reference "*a specific second user [and] a specific transaction*," as recited in claim 102. As a result, combination of the cited references fails to disclose at least this element of independent claim 102, and all claims dependent therefrom.

Thus, the combination of Feedback Forum, Falk, and Fuerst fails to teach or suggest Applicant's claimed invention or support rational inferences which one skilled in the art would be reasonably expected to draw to reach the Applicant's claimed invention. Therefore, it is respectfully requested that the rejections of claims 95-105 and 107-118 be removed and the claims be placed in condition for allowance.

Furthermore, Applicant respectfully submits that one having ordinary skill in the art would not have combined Feedback Forum, Falk, and Fuerst in the manner proposed by the Office Action. Falk explicitly states, "Getting customer response through the use of *generic surveys* also has *several disadvantages*. First, surveys tend to be *impersonal* and ask *general questions . . . that are not unique to a particular customer's experience*." (Falk, paragraph 0006, emphasis added). Feedback Forum, however, expressly describes a numerical "Feedback Rating system" in which, "[f]or example, Skippy (125) means that a member's User ID is Skippy with a total of 125 positive comments." (Feedback Forum, page 1). The "Feedback Rating system" awards "+1 point for each positive comment," "0 points for each neutral comment," and "-1 point for each negative comment." (Feedback Forum, page 1). Accordingly, the "Feedback Rating system" of Feedback Forum is "generic," "general," and "not unique to a particular customer's experience," directly contradicting Falk. Combining Falk with Feedback Forum, therefore, would lead or teach away from the teaching of Feedback Forum that "use of generic surveys . . . has several disadvantages." (Falk, paragraph 0006). Thus, one having ordinary skill in the art would not have combined Feedback Forum, Falk, and Fuerst in the manner proposed by the Office Action.

Accordingly, for at least the above-stated reasons, Applicant submits that independent claims 95, 102, 108, and 114, and their respective dependent claims are patentable under 35 U.S.C. §103(a) over Feedback Forum, Falk, and Fuerst. Therefore, it is respectfully requested that the rejections of claims 95-105 and 107-118 be removed and the claims be placed in condition for allowance.

Claims 106 and 119 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Feedback Forum in view of Falk, in further view of Fuerst, in further view of Bayer et al. (U.S. Patent No. 6,311,190, hereinafter, "Bayer"). The above-stated arguments with respect to independent claims 102 and 114 are applicable to dependent claims 106 and 119. Therefore, it is

AMENDMENT AND RESPONSE UNDER 37 C.F.R § 1.111

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respectfully requested that these rejections be removed and the claims be placed in condition for allowance.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4059 to facilitate prosecution of this application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(408) 278-4059

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By *David N. Tran*
David N. Tran
Reg. No. 50,804

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 30, 2008.

DAVID N. TRAN
Name

(Signature)
Signature